

Ropers Majeski Kohn & Bentley
A Professional Corporation
Redwood City

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LIBERTY MUTUAL FIRE INSURANCE
COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BARRETT MCGRATH and BARBARA
MCGRATH,

Plaintiffs,

v.

LIBERTY MUTUAL FIRE INSURANCE
COMPANY, and DOES 1-50 inclusive,

Defendants

Case No. 5:10-CV-05263 JF

**STIPULATION AND ORDER TO EXTEND
TIME FOR WHICH TO COMPLETE
MEDIATION AND RESET FURTHER CASE
MANAGEMENT CONFERENCE**

The parties to this action, plaintiffs BARRETT MCGRATH and BARBARA MCGRATH, and defendant LIBERTY MUTUAL FIRE INSURANCE COMPANY, by and through their respective attorneys, stipulate as follows.

WHEREAS the parties were referred to private mediation during the Case Management Conference held on February 25, 2011. A Further Case Management Conference was set 91 days later to be held on May 27, 2011, the date set for after the time for completion of the private mediation.

WHEREAS the mediation originally set for May 5, 2011 was set per the agreement of the parties and in compliance with ADR L.R. 3.6 to complete the private mediation within 90 days after the entry of an order referring the case to a specific ADR process, unless otherwise ordered.

WHEREAS plaintiff BARRETT MCGRATH has been traveling overseas and otherwise tied up in business commitments and BARBARA MCGRATH has been occupied with a

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terminally ill parent, so Plaintiffs needed additional time to prepare for mediation.

THE PARTIES HEREBY STIPULATE to the rescheduling of the private mediation to commence on June 16, 2011, before Vivien Williamson, Esq. in Oakland, California.

THE PARTIES FURTHER STIPULATE that the Further Case Management Conference, currently set for May 27, 2011, at 10:30 a.m., in Courtroom 3, 5th Floor, of this Court, be reset for the new date of July 8, 2011, at 10:30 a.m.

IT IS SO STIPULATED.

DATED: April 28, 2011

CHILES and PROCHNOW, LLP

By: /s/
ROBERT C. CHILES
Attorney for Plaintiffs
BARRETT and BARBARA McGRATH

DATED: April 28, 2011

ROPERS, MAJESKI, KOHN & BENTLEY

By: /s/
PAMELA E. COGAN
LAURA L. REIDENBACH
Attorneys for Defendant LIBERTY
MUTUAL FIRE INSURANCE COMPANY

ORDER

Pursuant to the Court's finding good cause for allowing the private mediation to occur after the 90-day deadline, and allowing the Further Case Management Conference to be reset after the conclusion of said mediation, including consideration of the Stipulation contained herein,

PURSUANT TO STIPULATION, IT IS SO ORDERED that the time to complete private mediation is extended to **June 20, 2011**, and the Further Case Management Conference, currently set for May 27, 2011, is reset for **July 8, 2011, at 10:30 a.m., in Courtroom 3, 5th Floor**.

DATED: 5/9/11


THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT COURT

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Attorneys for Plaintiffs, Barrett McGrath and
Barbara McGrath

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Barrett McGrath and Barbara McGrath

Plaintiffs,

vs.

Liberty Mutual Fire Insurance Company, Carlos
Encinas and DOES 1 - 50

Defendants.

Case No. 5:10-CV-05263 JF

**DECLARATION OF ROBERT C. CHILES
IN SUPPORT OF REQUEST FOR
FURTHER CASE MANAGEMENT
CONFERENCE**

I, Robert C. Chiles, declare

1. I am the attorney for Barbara and Barrett McGrath in this action.
2. The McGraths reside in North Carolina.
3. This matter was originally scheduled for a case management conference on May 27, 2011 based upon the expectation that the parties would have completed mediation prior to that time. In fact a mediation was scheduled on May 5, 2011 before Vivien Williamson in Oakland, California. The McGraths had intended to be in California at that time because they would also be attending an engagement party for their daughter.
4. The McGraths encountered difficulties in producing their documentation. Most of the documents they have relating to this claim consist of e-mails many of which date back to shortly after the time of the fire. They had difficulty assembling these documents and as a

1 result they were not able to complete their initial production due on April 1, 2011 and
2 instead were only able to make their initial production on April 15, 2011. Their difficulties
3 in assembling these materials were further aggravated by Mr. McGrath's work. The
4 company he works for recently received approval from European authorities for the
5 marketing of a new medication for patients suffering from terminal pulmonary illness. Mr.
6 McGrath was required to spend large amounts of time in Europe assisting in facilitating the
7 approval. His absences caused additional difficulties in locating and assembling the
8 materials that were need for production.

- 9 5. In mid-April I learned that Mrs. McGrath's 90 year old mother was seriously ill and was
10 hospitalized. Her condition began to rapidly decline. As a result of Mrs. McGrath's
11 mother's health, the McGraths cancelled the engagement party for their daughter set for the
12 weekend of April 30. They also advised that they were uncertain that they could attend the
13 mediation scheduled on May 5 because they did not know whether Mrs. McGrath's
14 mother's health would further deteriorate. In fact, Mrs. McGrath's mother passed away the
15 week of April 20th.
- 16 6. Because of uncertainty over the McGrath's availability due to Mrs. McGrath's mother's
17 illness, we concluded that the May 5th mediation date had to be changed. We subsequently
18 obtained additional mediation dates from Ms. Williamson and June 16th was the earliest
19 date that all parties were able to attend. The mediation has therefore been rescheduled for
20 that date.
- 21 7. I anticipate that all parties will be able to fully participate in the mediation on June 16th in
22 Oakland, California.
- 23 8. There have been no other changes to the mediation date other than the one described
24 above. The only other change to the scheduling I noted from the Court's docket is that the
25 original Case Management Conference date was rescheduled when this case was
26 reassigned.
- 27 9. Based upon the foregoing Plaintiffs have stipulated with Defendant to continue the status
28 conference now set for May 27, 2011 to a date after the mediation that now set for June 16.

1 Executed under penalty of perjury under the laws of the State of California.

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3 Dated: April 28, 2011

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6 By: /s/ Robert C. Chiles
7 ROBERT C. CHILES
8 Attorneys for Plaintiffs Barrett McGrath and
9 Barbara McGrath
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